

REMARKS

Applicants have amended Claim 9 and canceled Claims 13 and 14 as discussed below. The claims amended remain fully supported in the specification.

Applicants have amended the specification to correct obvious and inadvertent typographical errors in two patent numbers appearing in the specification in the same paragraph at page 2. The correct numbers are listed in the enclosed Forms PTO 1449 (which are discussed below).

Information Disclosure Statement

The Office Action (as confirmed by phone interview with the Examiner on September 30, 2005) indicates that Applicants' Information Disclosure Statement submitted with the present national stage application is defective in that no Form PTO 1449 was attached to the two-page cover letter. Because Applicants' file copy of the Information Disclosure Statement has two three-page sets of Forms PTO 1449, Applicants may have inadvertently omitted copies from their submission with the present national stage application. Applicants apologize for any confusion and submit the appropriate forms at this time.

Rejection under 35 U.S.C. 102

Claims 9, 13, and 14 stand rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent 6,838,473 ("Asrar et al"). Applicants respectfully traverse.

Asrar et al discloses the prevention of damage by pests to plants, including seeds, by treating unsown seed with compositions comprising clothianidin and at least one pyrethrin or synthetic pyrethroid. E.g., column 4, lines 2 et seq. Among the many enumerated pyrethroids are beta-cyfluthrin and lambda-cyhalothrin (see column 6, lines 22 and 38, respectively). Asrar et al, however, does not disclose combinations of clothianidin with other types of active ingredients.

Applicants' claims as now amended are directed only to compositions comprising synergistically active mixtures of clothianidin with abamectin, emamectin (or emamectin benzoate), and/or methiocarb, none of which is a pyrethrin or synthetic pyrethroid.

Applicants therefore respectfully submit that their claimed invention is not anticipated by Asrar et al.

Rejection under 35 U.S.C. 103

Claims 9-16 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Asrar et al and EP 1,149,532. Applicants respectfully traverse.

As discussed above, Asrar et al discloses compositions comprising clothianidin and at least one pyrethrin or synthetic pyrethroid but does not teach or suggest Asrar et al, however, does not disclose combinations of clothianidin with other types of active ingredients. Asrar et al therefore would not lead those skilled in the art to Applicants' claimed invention. Applicants also submit that EP 1,149,532 would not suggest their claimed invention.

EP 1,149,532 discloses a method of controlling flies with nicotinic acetylcholine receptor agonists or antagonists, including clothianidin. E.g., page 2, lines 5-12, and page 4, lines 22. EP 1,149,532 also teaches that the disclosed compounds can be used in combination with any of a host of other active ingredients. See page 6, line 51, through page 7, line 20. Among this large array of secondary compounds can be found cyhalothrin, beta-cyfluthrin, avermectin, and emamectin-benzoate. See page 7, lines 2-5. Nothing in EP 1,149,532, however, places any special significance on any one of the secondary compounds or suggests that any particular combinations of clothianidin (or any other nicotinic acetylcholine receptor agonist or antagonist) with these secondary compounds would exhibit properties any different from any other of the multitude of possible combinations. Even if some of the many possible combinations might exhibit synergism as suggested in the Office Action, nothing in the reference suggests that all – or even a predictable particular subset – of this multitude of possible combinations would exhibit synergism, expected or otherwise. In view of the inherent unpredictability of synergism, Applicants submit that the data submitted in their specification are sufficient to overcome any inference of obviousness based on the cited references.

Applicants therefore respectfully submit that their claimed invention is not rendered obvious by Asrar et al and EP 1,149,532.

In view of the preceding amendments and remarks, allowance of the claims is respectfully requested.

Respectfully submitted,

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